United States Department of Labor Employees' Compensation Appeals Board

| D.L., Appellant |) | |
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| and |) | Docket No. 11-1054 Issued: November 25, 2011 |
| DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Coatesville, PA, Employer |))) | issucu. November 23, 2011 |
| Appearances: Thomas R. Uliase, Esq., for the appellant | , | Case Submitted on the Record |

Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

Appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) December 21, 2010 merit decision denying her occupational disease claim. The appeal was docketed as number 11-1054. The Board finds that this case is not in posture for a decision.

The present appeal involves appellant's March 15, 2010 occupational disease claim (File No. xxxxxx435), in which she alleged aggravation of brain, neck and back injuries due to employment activities in a modified health aid position she held for one week. In a December 21, 2010 decision, an OWCP hearing representative indicated that appellant had two prior claims, including a July 16, 1999 claim for a back injury (File No. xxxxxxx749) and a March 27, 2000 traumatic injury claim (File No. xxxxxxxx477), which was reportedly accepted for concussion and contusion of the head. The record, however, does not contain any evidence relating to the development of either of those claims. The record in the instant case (File No. xxxxxxx435) contains medical evidence from Dr. Scott M. Fried, a Board-certified osteopath, specializing in orthopedic surgery, who diagnosed postconcussion syndrome, brachial

¹ In a December 13, 2004 decision, the Board reversed OWCP's February 18, 2004 decision in File No. xxxxxx447 terminating appellant's compensation benefits. Docket No. 04-1775 (issued December 13, 2004).

plexopathy and low back dysfunction secondary to appellant's March 2000 work injury. Dr. Clem Caccarelli, a Board-certified family practitioner, diagnosed postconcussive syndrome and thoracic outlet syndrome, which he opined had developed over a 10-year period and had been exacerbated by appellant's modified work activities. Without reviewing the relevant case records, the Board is unable to determine whether appellant's current diagnosed conditions are causally related either to a prior injury or the claimed exacerbation in this case. Due to the overlapping nature of the claims, the medical evidence contained in File Nos. xxxxxx749 and xxxxxx477 will necessarily bear directly on appellant's claim for compensation in File No. xxxxxx435.

Because it is essential for the Board to review the medical evidence contained in file numbers xxxxxx749 and xxxxxxx477 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case file numbers xxxxxxx749 and xxxxxx477 with file number xxxxxxx435. Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' December 21, 2010 decision be set aside and the case remanded for further development consistent with this order.

Issued: November 25, 2011

Washington, DC

Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

Alec J. Koromilas, Judge Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board